

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ARMANDO ARCE,

Plaintiff,

v.

18-CV-635
DECISION & ORDER

DAVID L. TURNBULL, Support
Magistrate, et al.,

Defendants.

On June 4, 2018, the plaintiff, Armando Arce, commenced this action. Docket Item 1. On November 4, 2019, defendants Michael Griffith, David Turnbull, and the State of New York moved to dismiss. Docket Item 11. The next day, this Court referred this case to United States Magistrate Judge Hugh B. Scott for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 13.

On November 19, 2019, defendant Chautauqua County moved to dismiss. Docket Item 16. Arce did not respond to either motion to dismiss, and the time to do so passed. On January 9, 2020, defendant Chautauqua County “replied” in support of its motion. Docket Item 17. On January 17, 2020, Arce moved to appoint counsel. Docket Item 18.

On May 13, 2020, Judge Scott issued a Report and Recommendation (“R&R”) finding that the defendants’ motions should be granted and that Arce’s motion should be denied. Docket Item 19. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Scott's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Scott's recommendation to grant the defendants' motions to dismiss and deny Arce's motion to appoint counsel.

For the reasons stated above and in the R&R, the defendants' motions to dismiss, Docket Items 11 and 16, are GRANTED; and Arce's motion to appoint counsel, Docket Item 18, is DENIED as moot. The Clerk of Court shall enter judgment and close this case.

SO ORDERED.

Dated: July 20, 2020
Buffalo, New York

/s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE